

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

JUDY BONN-WITTINGHAM; MELVA JONES; GERMITA FREMONT; MAISIE BECKFORD, LENA BARTON; DULCIE JONES; UNICA GEORGE; GRETA KEISER; ENID LEWIS; MARIE PAULA EUGENE; GLORIA BENT; GRACE YARDE; LINDA HENDERSON; VESTA DOUGLAS; EVELYN CIMA; MERLE HOYTE; OCTAVIA CRICK; ALBERTINA THOMAS; UNICEY DESHIELDS; SUZY DORCE; IMMACULA AUGUSTE; MARY P. EUGENE; ALBERTHA FENELON; PARBATI SINGH; VERNA RICKETTS; GILLIAN BOWEN; FARIL BEST; CORNELIOUS GREEN; MARGARET YOUNGE; GLADYS ENRIQUEZ; OLIVE DUTCHIN; MIGNAN BARRY; SHERAN JAMES; DEBBIE ANN BROWN; PAULINE GRANT; CATHERINE JESSAMY; BEVERELY CALDWELL; IRMA ANDERSON; MARIE AFREH; SHIRLEY EDWARDS; OMODELE JOHNSON; THEMA JAMES; ADALSIE HOUSTON; ROSEANNE CRANDON; CECILIA BEST; MARTHA GROVES; LAUNA JONES; ANGELA ARMSTRONG; IONIE SENIOR; YOLANDE JEAN-BART; MORINE WRIGHT; YVONNE LEWIS; ANITA LUBIN; ELAINE CLARKE; MARIE FLEURIMONT; MARGARET COTTERELL; MARIE YANICK JOSEPH; ELLA POMPEY; MYRNA THOMAS; MARIE-L GILLES; EUNICE STAFFORD; MARIE MILORD; MARIE D. PIERRE; MERLE LOPEZ; BEVERLINE GRANT; ELAINE TAYLOR; LINNETT WILLIAMS; ROXANNE CAMBRIDGE; KATHLENE MORGAN; SAWARIE RAMLOCHAN; ANNE MARIE MORGAN; LEONIE HUSSETT; LINETTE CORNWALL; FAY MCKENZIE; MARIE DORSAINVILLE; CARMEL ANDERSON; YOLANA GAYLE; PAULINE CLARKE; ALVIRA HENRY; JOAN LEACOCK; LYNETTE VYENT; MARIE MONPREMIER; SYLVIA HOYTE; UNA SEALE; LUCY INEUS; LORENTE SIMEON; PEARLINE DONALDSON-REID; BETTYANNE ALEXANDER; OLGA CADET; CARMEN POWNALL; JUDY TAYLOR; LYNETTE A. WILLIAMS; FLORENCE CUVILLY; JEANETTE BRICE; CAROLINE LONG; MARJORIE JOHNSON; GERDA ANTOINE; DORETTA THOMAS; WALTERINE LEVIUS; VELDA MAYERS; ELIZA HAMILTON; YVONNE MACK; ISOLYN PALMER; VANETTA GRANT; PATRICIA COSMAS; DONNA HEADLEY; CLAUDETTE GRIMES; SEORAJNI PERSAUD; NEELA WARDEN; EILEEN TUCKER;

LAW OFFICES

**Peckar &  
Abramson**

A Professional Corporation

ANNETTE DAVIS; CARMEN PELZER; ANN SABAL;  
JACQUELINE ELLIS; JOAN MARAGH; SYLVIA  
PETERS; JUILETTE HAMILTON; MARIE LAGUERRE;  
TANISHA GOODEN; IMMACULA DORISMOND; ELSIE  
COLLINS; BEVERLY ROYAL MCPHERSON; AUDREY  
CROSDALE; MARIYA SUDNISHNIKOVA; VALENTINA  
RUSZCZYK; HODA HASSANE; HUGUETTE NELSON;  
SANDRA MCINTOSH; YVELINE M. BEAUCHAMP;  
JULIETH MELBOURNE; ADELINE JERMAIN;  
GISLAINE JOCELYN; MIROSLAWA BARTOLD;  
MARINA KISSINA; MARINA BESSARABOVA;  
MARTHE LATOUR; JEANINE ELIE; MARIE  
LONGUEFOSSE; YPPOLIA DECOPAIN; LUDMILLA  
ARMONAVICA; ESTHER LOPEZ; JANINA  
WERLYNSKA; CONSESORA LIRIANO; MARIANELA  
SORIANO; DIGNA GARCIA; PAULA GARCIA;  
MERCEDES GARCIA; LIDIYA BERDNKOVA;  
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DANUTA MALMON, NELI KORINTELI, ASYA  
CHERNINA, DAISY CASTILLO, JOSEFINA ARIAS,  
MARIE PLAISIR, EUGENEA GORBACHEVA, FARA  
CHACAN, BARNO AKHTAMOVA, SVETLANA  
SHAPOSHNIK, LYUDMILLA ARTANOSHINA, CICELY  
DALY and ANNA GARVEY,

Plaintiffs,

on behalf of themselves and all others similarly situated,

- against -

PROJECT O.H.R. (OFFICE FOR HOMECARE  
REFERRAL), INC.; METROPOLITAN NEW YORK  
COORDINATING COUNCIL ON JEWISH POVERTY;  
D'VORAH KOHN,

Defendants.

**JOINT REPORT OF THE PARTIES CONCERNING DISCOVERY**

As directed by the Court in its September 21, 2016 Minute Order, the parties jointly  
submit this Joint Status Report.

### **STATUS REPORT**

As reported previously to the Court, Defendants furnished Plaintiffs with the personnel files for all 174 named plaintiffs. Plaintiffs have not raised any issues with the completeness of this production.

Plaintiffs have been responding to a targeted set of document demands and interrogatories, on a rolling basis. Plaintiffs' counsel reports that he has had difficulty in obtaining responsive information from some of his clients. The deadline for Plaintiffs to furnish answers to interrogatories and responses to document requests was November 14, 2016. As of the date of this report, approximately 80% of the Plaintiffs have furnished responsive discovery. A large percentage of those materials were received today, and Defendants have not had a chance to evaluate them for completeness.

The parties further report that the Court held a conference by phone on October 4, 2016 in which Judge Ross expressed her view that the Second Amended Complaint was deficient. She provided plaintiffs with a further opportunity to amend the complaint. After Plaintiffs amended the complaint (ECF # 43), Defendants provided the Court with a Supplemental Memorandum of Law (ECF # 44) addressing the deficiencies of the Fourth<sup>1</sup> Amended Complaint and requesting that it be dismissed.

It is Defendants' position that any further discovery should be stayed, particularly in light of the views expressed by Judge Ross at the October 4, 2016 telephone conference about the deficiencies of the complaint which, in Defendants' view, were not remedied by Plaintiffs. Plaintiffs believe the deficiencies were cured. Defendants believe that a stay of discovery is required concerning Met Council in light of the paltry and deficient allegations of joint employer in the Fourth Amended Complaint. Another reason further discovery should not be

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<sup>1</sup> The new complaint was improperly denominated the "Fourth Amended Complaint".

authorized is that Plaintiffs have failed to produce all discovery previously authorized and even the discovery produced to date has been just produced today so that defense counsel has not yet been able to review it to ensure completeness. Plaintiffs dispute this position, and request that fact discovery continue.

If the Court is not inclined to stay discovery, the parties request a period of ninety (90) days to take depositions of Plaintiffs, representatives of Project OHR, and non-party witnesses. Defendants intend to limit depositions of fact witnesses as much as practicable, but note that the answers to interrogatories furnished by Plaintiffs further demonstrate the intensely fact-specific inquiry involved in assessing the applicability of the companionship exemption to each of Plaintiffs. Plaintiffs are of the mind that every FLSA exemption case involves a fact specific inquiry.

Dated: November 21, 2016

LAW OFFICE OF DAVID WIMS  
*Attorney for Plaintiffs*

/s/ David Wims

By: \_\_\_\_\_  
David Wims, Esq.  
1430 Pitkin Avenue, 2<sup>nd</sup> Floor  
Brooklyn, New York 11233  
(646) 393-9550

PECKAR & ABRAMSON, P.C.  
*Attorneys for Defendants*

/s/ Kevin J. O'Connor

By \_\_\_\_\_  
Kevin J. O'Connor, Esq.  
41 Madison Avenue, 20<sup>th</sup> Floor  
New York, New York 10036  
(212) 382-0909

LAW OFFICES

**Peckar &  
Abramson**

A Professional Corporation